

OCT 17 2007

# KRIEG · DEVAULT L.P.

## ATTORNEYS AT LAW

### FAX COVER PAGE

DATE: October 17, 2007

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TO: Examiner Alvin J. Stewart (Group Art Unit 3732)  
COMPANY: United States Patent & Trademark Office

FAX NUMBER: 571-273-8300  
PHONE NUMBER:

FROM: Brad A. Schepers, Reg. No. 45,431

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RE: Response to final Office Action for U.S. Patent Application No. 10/763,719

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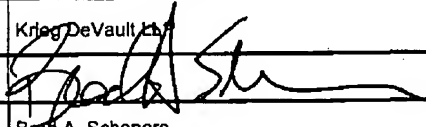
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/763,719	
	Filing Date	January 23, 2004	
	First Named Inventor	Thomas Zdeblick et al.	
	Art Unit	3732	
	Examiner Name	Alvin J. Stewart	
Total Number of Pages in This Submission	14	Attorney Docket Number	MSDI-200/PC261.21


ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input checked="" type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	Krieg DeVault, LLP		
Signature			
Printed name	Brad A. Schepers		
Date	October 17, 2007	Reg. No.	45,431

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

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Typed or printed name	Brad A. Schepers	Date	October 17, 2007

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OCT 17 2007

Doc.1162649

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:	)	Before the Examiner
Thomas Zdeblick et al.	)	Alvin J. Stewart
	)	
Serial No. 10/763,719	)	Group Art Unit 3732
	)	
Filed January 23, 2004	)	Ref. No. MSI-D-200/ PC261.21
	)	
METHODS AND INSTRUMENTS	)	October 17, 2007
FOR INTERBODY FUSION	)	

**Via Facsimile Transmission: 571-273-8300****RESPONSE TO FINAL OFFICE ACTION AND ADVISORY ACTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action dated July 23, 2007 and the Advisory Action dated October 12, 2007, please enter and consider the following amendments and remarks. Additionally, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

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### INTRODUCTORY COMMENTS

Claims 15-23, 39-52, 54, 55, 65, 67 and 71 were pending in the subject application for the final Office Action dated July 23, 2007. Claims 15-23, 41-43, 52, 65 and 67 have been allowed. Claims 54 and 55 have been objected to, but have been indicated as allowable if rewritten in independent form. Claims 40, 44-51 and 71 currently stand rejected. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.

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Response to final Office Action  
Application Serial No. 10/763,719  
Inventors: Zdeblick et al.  
Filing Date: January 23, 2004

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